

THE HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL FADULLON, individually and
on behalf of all others similarly
situated,

Plaintiff,

vs.

CAPITAL ONE FINANCIAL
CORPORATION; AMAZON WEB
SERVICES, INC.; PAIGE A.
THOMPSON; and DOES 1-10,

Defendants.

Case No. 2:19-cv-01189-BJR

NOTICE OF TRANSFER ORDER

The Court stayed this case pending the Judicial Panel on Multidistrict Litigation's decision whether to consolidate and transfer certain related cases. The Court asked for a status report by October 31, 2019. Defendant Capital One Financial Corporation notifies the Court that the Panel entered an order on October 2, 2019 transferring this case to the Eastern District of Virginia. The Panel's transfer order is attached as Exhibit 1.

1 DATED this 4th day of October, 2019.

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17 Financial Corporation

DECLARATION OF SERVICE

I, Jennifer Schnarr, hereby declare under penalty of perjury under the laws of the United States that on this 4th day of October, 2019, the foregoing document was filed using the CM/ECF system which will send notice of the same to all registered parties.

SIGNED at Seattle, Washington this 4th day of October, 2019.

s/Jennifer L. Schnarr

Jennifer L. Schnarr, Legal Assistant

Exhibit 1

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: CAPITAL ONE CUSTOMER
DATA SECURITY BREACH LITIGATION**

MDL No. 2915

TRANSFER ORDER

Before the Panel:* Plaintiffs in two actions move separately under 28 U.S.C. § 1407 to centralize this litigation. Movant in one action seeks centralization in the Western District of Washington or, alternatively, the District of District of Columbia. Movants in five actions seek centralization in the District of District of Columbia. Plaintiffs' motions include 21 actions pending in 12 districts, as listed on Schedule A. The Panel also has been notified of 40 potentially-related actions filed in 13 districts.¹

The responding parties generally support centralization, though plaintiffs in one potential tag-along action oppose inclusion of their action in centralized proceedings. The remaining responding plaintiffs variously support centralization in the Western District of Washington, the District of District of Columbia, the Eastern District of Virginia, and/or the Northern District of California. Defendant GitHub, Inc. (GitHub) does not oppose centralization and does not have a preference as to transferee district. The Capital One defendants² and the AWS defendants³ support centralization in the Eastern District of Virginia.

On the basis of the papers filed and the hearing held, we find that centralization under Section 1407 of all actions in the Eastern District of Virginia will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share factual issues concerning a recently-announced incident in which an individual gained unauthorized access

* Judge Nathaniel M. Gorton took no part in the decision of this matter.

Additionally, one or more Panel members who could be members of the putative classes in this litigation have renounced their participation in these classes and have participated in this decision.

¹ These and any other related actions are potential tag-along actions. *See* Panel Rules 1.1(h), 7.1, and 7.2.

² Capital One Financial Corporation, Capital One Bank (USA), N.A., and Capital One, N.A.

³ Amazon.com, Inc. and Amazon Web Services, Inc.

-2-


to the personal information, maintained on cloud-based systems, of more than 100 million Capital One credit card customers and individuals who applied for Capital One credit card products. All actions arise from the same data security breach, and they all allege that Capital One failed to put in place reasonable data protections.⁴ Centralization will eliminate duplicative discovery, prevent inconsistent pretrial rulings on class certification and other issues, and conserve the resources of the parties, their counsel, and the judiciary.

We select the Eastern District of Virginia as the transferee district for this litigation. Common defendant Capital One is headquartered within this district in McLean, Virginia, and represents that relevant documents and witnesses will be found there. Moreover, the AWS defendants maintain that relevant witnesses and evidence are located in an AWS facility located in Northern Virginia. Judge Anthony J. Trenga is an able jurist with MDL experience, and we are confident he will steer these proceedings on a prudent course.

IT IS THEREFORE ORDERED that the actions listed on Schedule A and pending outside the Eastern District of Virginia are transferred to the Eastern District of Virginia, and, with the consent of that court, assigned to the Honorable Anthony J. Trenga for coordinated or consolidated pretrial proceedings.

IT IS FURTHER ORDERED that, consistent with Panel docket naming conventions, MDL No. 2915 is renamed, *In re Capital One Customer Data Security Breach Litigation*.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Lewis A. Kaplan
R. David Proctor
Karen K. Caldwell

Ellen Segal Huvelle
Catherine D. Perry

⁴ The Western District of Wisconsin *Baisden* potential tag-along plaintiffs argue their action is distinguishable because they allege unique Wisconsin state law claims and their complaint will focus upon Capital One's alleged failure to inform affected consumers with actual notice that their personal information was compromised. These arguments will be considered in due course through the conditional transfer order process, as this action is not now before the Panel.

**IN RE: CAPITAL ONE CUSTOMER
DATA SECURITY BREACH LITIGATION**

MDL No. 2915

SCHEDULE A

Central District of California

LABAJO, ET AL. v. CAPITAL ONE BANK (USA), N.A., ET AL., C.A. No. 5:19-01431

Northern District of California

FISHER, ET AL. v. CAPITAL ONE FINANCIAL CORPORATION, ET AL.,
C.A. No. 3:19-04485
ABALLO, ET AL. v. CAPITAL ONE FINANCIAL CORPORATION, ET AL.,
C.A. No. 3:19-04475

Southern District of California

PERDEW v. CAPITAL ONE BANK (USA), N. A., C.A. No. 3:19-01421

District of District of Columbia

ZOSIAK v. CAPITAL ONE FINANCIAL CORPORATION, ET AL., C.A. No. 1:19-02265
TADROUS v. CAPITAL ONE FINANCIAL CORPORATION, ET AL.,
C.A. No. 1:19-02292
BERGER, ET AL. v. CAPITAL ONE FINANCIAL CORPORATION, ET AL.,
C.A. No. 1:19-02298
GREENSTEIN v. CAPITAL ONE FINANCIAL CORPORATION, ET AL.,
C.A. No. 1:19-02307
LIPSKAR v. CAPITAL ONE FINANCIAL CORPORATION, ET AL., C.A. No. 1:19-02328

Middle District of Florida

FRANCIS v. CAPITAL ONE FINANCIAL CORPORATION, ET AL., C.A. No. 8:19-01898

Northern District of Illinois

RUFFINO v. CAPITAL ONE FINANCIAL CORPORATION, ET AL., C.A. No. 1:19-05234

District of Kansas

HARN v. CAPITAL ONE FINANCIAL CORPORATION, ET AL., C.A. No. 2:19-02441
Eastern District of New York

-4-

HUN v. CAPITAL ONE FINANCIAL CORPORATION, ET AL., C.A. No. 1:19-04436

Southern District of New York

HOWITT v. CAPITAL ONE FINANCIAL CORPORATION, ET AL., C.A. No. 1:19-07161

Eastern District of Pennsylvania

VEVERKA v. CAPITAL ONE, N.A., ET AL., C.A. No. 2:19-03461

Eastern District of Virginia

BAIRD v. CAPITAL ONE FINANCIAL CORPORATION, C.A. No. 3:19-00585

MCDONOUGH v. CAPITAL ONE FINANCIAL CORPORATION, ET AL.,
C.A. No. 3:19-00595

ANTHONY v. CAPITAL ON., N.A., ET AL., C.A. No. 3:19-00608

HILKER v. CAPITAL ONE FINANCIAL CORPORATION, ET AL., C.A. No. 1:19-00995

Western District of Washington

FADULLON v. CAPITAL ONE FINANCIAL CORPORATION, ET AL.,
C.A. No. 2:19-01189

OUELLETTE, ET AL. v. CAPITAL ONE FINANCIAL CORPORATION, ET AL.,
C.A. No. 2:19-01203